

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JARAMIE DEAN WOMACK,

Petitioner,

vs.

ISIDRO BACA, *et al.*,

Respondents.

3:13-CV-00126-LRH-VPC

ORDER

On March 13, 2013, petitioner submitted a document styled “appeal” (ECF #1-1) along with a completed application to proceed *in forma pauperis* and a motion for appointment of counsel. Such document is insufficient to initiate a habeas corpus action in this court. As stated in Rule 1 of the Federal Rules of Civil Procedure, a civil action is commenced by filing a complaint, or in this case, a petition for writ of habeas corpus.¹

IT IS THEREFORE ORDERED that this action is **DISMISSED** without prejudice to the filing of a new petition in a new action with a properly completed application to proceed *in forma pauperis*.

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¹ With regard to timeliness, it appears from the available records that petitioner seeks to challenge a judgment of conviction dated June 14, 2000 (*See Womack v. Del Papa*, 3:02-cv-00374-HDM-RAM, ECF #17 at 2). He also attaches a Nevada Supreme Court order dated February 13, 2013, affirming the state district court denial of a motion to correct an illegal sentence. Thus it does not appear that a dismissal of the present petition without prejudice will materially affect an analysis of any timeliness or exhaustion issue as to a promptly filed later petition. Nor does it appear from the available records that a dismissal of this improperly commenced action without prejudice necessarily will be with prejudice in effect. Petitioner at all times remains responsible for properly exhausting his claims, for calculating the running of the federal limitation period as applied to his case, and for properly commencing a timely-filed federal habeas action.

1 **IT IS FURTHER ORDERED** that petitioner's application to proceed *in forma pauperis* (ECF
2 #1) is **DENIED** as moot.

3 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**, as jurists of reason
4 would not find the court's dismissal of this improperly commenced action without prejudice to be
5 debatable or incorrect.

6 **IT IS FURTHER ORDERED** that the Clerk shall send petitioner two copies each of an
7 application form to proceed *in forma pauperis* for incarcerated persons and a noncapital Section 2254
8 habeas petition form, one copy of the instructions for each form, and a copy of the papers that he
9 submitted in this action.

10 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** accordingly and close
11 this case.

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13 DATED this 11th day of April, 2013.



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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE